

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

907 WRIT PETITION NO. 11576 OF 2015

RAJESH SANTU SAHANE
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

...

Advocate for Petitioner : Mr. Shelke Shivaji T.
AGP for Respondents State: Mr. S. P. Sonpawale

**CORAM : S. V. GANGAPURWALA &
K. L. WADANE, JJ.**

DATE : 18th August, 2016

ORDER:

1. The proposal seeking approval to the appointment of the petitioner as Assistant Teacher is rejected. Aggrieved thereby, the present petition.

2. Mr. Shelke, the learned counsel for the petitioner states that the petitioner is appointed in the year 2001 initially as an untrained teacher. The petitioner acquired the necessary qualification in the year 2007 and since then he has been given appointment as a trained teacher. The learned counsel submits that Respondent No.3 Management submitted proposal seeking approval to the appointment of the petitioner as an Assistant Teacher. The same is rejected without assigning valid reasons. According to learned counsel, the Education Officer had asked for removal of

deficiencies. The Management had removed the said deficiencies as pointed out in the letter dated 31.12.2014 and re-submitted the proposal. According to the learned counsel, still, the Education Officer, without application of mind, vide the impugned order, rejected the said proposal. The learned counsel submits that the order of termination was passed by the Management in respect of one Assistant Teacher, Smt. Savita Gunjal. The same was challenged and the Management withdrew the termination order. According to the learned counsel, even the Management accepts that the petitioner is discharging his duties as an Assistant Teacher. There was no impediment to grant approval to the appointment of the petitioner.

3. Mr. Sonpawale, the learned AGP states that vide letter dated 31.12.2014, various deficiencies were communicated to the Management. The said deficiencies were not cleared by the Management. The Education Officer had no alternative but to pass the impugned order. According to learned AGP, if a fresh proposal would have been submitted after clearing all the deficiencies, then the Education Officer could have considered the same. As it was not submitted, the order has been rightly passed.

4. We have considered the submissions.

5. The Management accepts that the petitioner is appointed in the year 2001 initially as an untrained teacher and an appointment order has been given in the year 2007, after the petitioner acquired necessary B. Ed. qualification. The Management also accepts that the petitioner is discharging his duties as an Assistant Teacher since then.

6. Naturally, the petitioner and the Management will have to satisfy the Education Officer with regard to the eligibility of the petitioner and will also have to submit the list of all the teachers working with the respondent Institution.

7. We need not enter into the dispute as to whether the Management had submitted the necessary documents as there are rival contentions in this regard. Interest of justice will be subserved by passing the following order:

O R D E R

i. The impugned order is quashed and set aside.

ii. In case the Management has submitted a fresh

proposal, the Education Officer shall consider the same on its own merits.

iii. In case the fresh proposal seeking approval to the appointment of the petitioner is not with the office of the Education Officer, then, the respondent Management shall submit the fresh proposal seeking approval to the appointment of the petitioner after complying with all the requirement, expeditiously, preferably within three months from today.

iv. Writ petition is accordingly disposed of. No costs.

(K. L. WADANE, J.)

(S. V. GANGAPURWALA, J.)

JPC